

HOUSE BILL REPORT

SB 5794

As Passed House:

March 25, 2005

Title: An act relating to authorizing a cigarette taxation agreement between the state of Washington and the Puyallup Indian Tribe.

Brief Description: Authorizing the governor to enter into a cigarette tax agreement with the Puyallup Tribe of Indians.

Sponsors: By Senators Prentice, Swecker, Regala, Franklin, Kohl-Welles, McAuliffe and Rasmussen; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 3/22/05 [DP].

Floor Activity:

Passed House: 3/25/05, 86-0.

Brief Summary of Bill

- Authorizes the Governor to enter into a cigarette tax agreement with the Puyallup Tribe of Indians.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 8 members: Representatives McIntire, Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Ericksen, Hasegawa and Santos.

Staff: Bob Longman (786-7139).

Background:

The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. Cigarette taxes are added directly to the price of the cigarettes. The rate for the cigarette tax is 142.5 cents per pack of twenty cigarettes which is equal to \$14.25 per carton. Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement. Retail sales and use taxes are also imposed on sales of cigarettes. The state sales tax rate is 6.5

percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.9 percent, depending on the location. State and local sales and use taxes on an average carton of cigarettes are about \$3.00.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette and state and local sales and use taxes and are exempt from these state and local taxes. The rate may be phased in over three years but can be no lower than 80 percent of the state cigarette and sales tax rate. Revenues from the tribal tax must be used for essential government services. The contracts must require the use of cigarette stamps and include other provisions for tax compliance. The contracts must be for renewable periods of no more than eight years.

The Governor has the authority to contract with twenty-one tribes and has contracted with eighteen tribes to date.

In June 1996, the state of Washington brought suit against the major tobacco companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. On November 23, 1998, the Attorneys General and other representatives of forty-six states announced a national settlement with the five largest tobacco manufacturers. The settlement of Washington's case was approved by the King County Superior Court and the decision became final on December 24, 1998. The national master settlement agreement requires annual payments by the companies to the participating states.

Summary of Bill:

The Governor is authorized to enter into an agreement with the Puyallup Tribe of Indians regarding the taxation of cigarettes. The agreement must require a tribal tax of \$11.75 per carton, in lieu of state cigarette and state and local sales and use taxes. The purchase price to the consumer must be at least as much as the wholesale cost to the retailer, plus the tribal tax amount. If the state cigarette tax rate changes, the tribal tax must increase or decrease by the same dollar amount. The state must receive 30 percent of the tribal tax revenue on a quarterly basis, to be deposited in the General Fund. The remaining tribal revenue must be used for essential government services.

The agreement must include provisions regarding tax enforcement and administration similar to other tribal cigarette agreements. The agreement must not impact the state share of the national master settlement agreement of litigation with major tobacco companies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill will end the dispute between the Puyallup Tribe and the state over cigarette taxes. It is a cooperative approach between the tribe and the Department of Revenue. It is good for the state and the tribe. It recognizes unique factors that apply to the Puyallup Tribe's situation. The agreement will also help reduce smoking and improve public health.

Testimony Against: None.

Persons Testifying: Leslie Cushman, Department of Revenue, and Kelly Croman, Squaxin Island Tribe.

Persons Signed In To Testify But Not Testifying: None.